

AN ACT

relating to the commitment of certain juveniles to local post-adjudication secure correctional facilities in certain counties and to the release under supervision of those juveniles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (d), Section 51.13, Family Code, is amended to read as follows:

(d) An adjudication under Section 54.03 that a child engaged in conduct that occurred on or after January 1, 1996, and that constitutes a felony offense resulting in commitment to the Texas Juvenile Justice Department [~~Youth Commission~~] under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) or commitment to a post-adjudication secure correctional facility under Section 54.04011 is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1) or Section 12.425 [~~, and (e)~~], Penal Code.

SECTION 2. Section 54.04, Family Code, is amended by amending Subsections (d) and (q) and adding Subsection (z) to read as follows:

(d) If the court or jury makes the finding specified in Subsection (c) allowing the court to make a disposition in the case:

(1) the court or jury may, in addition to any order required or authorized under Section 54.041 or 54.042, place the child on probation on such reasonable and lawful terms as the court

1 may determine:

2 (A) in the child's own home or in the custody of a
3 relative or other fit person; or

4 (B) subject to the finding under Subsection (c)
5 on the placement of the child outside the child's home, in:

6 (i) a suitable foster home;

7 (ii) a suitable public or private
8 residential treatment facility licensed by a state governmental
9 entity or exempted from licensure by state law, except a facility
10 operated by the Texas Juvenile Justice Department [~~Youth~~
11 ~~Commission~~]; or

12 (iii) a suitable public or private
13 post-adjudication secure correctional facility that meets the
14 requirements of Section 51.125, except a facility operated by the
15 Texas Juvenile Justice Department [~~Youth Commission~~];

16 (2) if the court or jury found at the conclusion of the
17 adjudication hearing that the child engaged in delinquent conduct
18 that violates a penal law of this state or the United States of the
19 grade of felony and if the petition was not approved by the grand
20 jury under Section 53.045, the court may commit the child to the
21 Texas Juvenile Justice Department or a post-adjudication secure
22 correctional facility under Section 54.04011(c)(1) [~~Youth~~
23 ~~Commission~~] without a determinate sentence;

24 (3) if the court or jury found at the conclusion of the
25 adjudication hearing that the child engaged in delinquent conduct
26 that included a violation of a penal law listed in Section 53.045(a)
27 and if the petition was approved by the grand jury under Section

53.045, the court or jury may sentence the child to commitment in the Texas Juvenile Justice Department or a post-adjudication secure correctional facility under Section 54.04011(c)(2) [~~Youth Commission~~] with a possible transfer to the Texas Department of Criminal Justice for a term of:

(A) not more than 40 years if the conduct constitutes:

- (i) a capital felony;
- (ii) a felony of the first degree; or
- (iii) an aggravated controlled substance felony;

(B) not more than 20 years if the conduct constitutes a felony of the second degree; or

(C) not more than 10 years if the conduct constitutes a felony of the third degree;

(4) the court may assign the child an appropriate sanction level and sanctions as provided by the assignment guidelines in Section 59.003; or

(5) if applicable, the court or jury may make a disposition under Subsection (m) or Section 54.04011(c)(2)(A).

(q) If a court or jury sentences a child to commitment in the Texas Juvenile Justice Department or a post-adjudication secure correctional facility [~~Youth Commission~~] under Subsection (d)(3) for a term of not more than 10 years, the court or jury may place the child on probation under Subsection (d)(1) as an alternative to making the disposition under Subsection (d)(3). The court shall prescribe the period of probation ordered under this subsection for

a term of not more than 10 years. The court may, before the sentence of probation expires, extend the probationary period under Section 54.05, except that the sentence of probation and any extension may not exceed 10 years. The court may, before the child's 19th birthday, discharge the child from the sentence of probation. If a sentence of probation ordered under this subsection and any extension of probation ordered under Section 54.05 will continue after the child's 19th birthday, the court shall discharge the child from the sentence of probation on the child's 19th birthday unless the court transfers the child to an appropriate district court under Section 54.051.

(z) Nothing in this section may be construed to prohibit a juvenile court or jury in a county to which Section 54.04011 applies from committing a child to a post-adjudication secure correctional facility in accordance with that section after a disposition hearing held in accordance with this section.

SECTION 3. Chapter 54, Family Code, is amended by adding Section 54.04011 to read as follows:

Sec. 54.04011. COMMITMENT TO POST-ADJUDICATION SECURE CORRECTIONAL FACILITY. (a) In this section, "post-adjudication secure correctional facility" means a facility operated by or under contract with a juvenile board or local juvenile probation department under Section 152.0016, Human Resources Code.

(b) This section applies only to a county in which the juvenile board or local juvenile probation department operates or contracts for the operation of a post-adjudication secure correctional facility.

1 (c) After a disposition hearing held in accordance with
2 Section 54.04, the juvenile court of a county to which this section
3 applies may commit a child who is found to have engaged in
4 delinquent conduct that constitutes a felony to a post-adjudication
5 secure correctional facility:

6 (1) without a determinate sentence, if:

7 (A) the child is found to have engaged in conduct
8 that violates a penal law of the grade of felony and the petition
9 was not approved by the grand jury under Section 53.045;

10 (B) the child is found to have engaged in conduct
11 that violates a penal law of the grade of felony and the petition
12 was approved by the grand jury under Section 53.045 but the court or
13 jury does not make the finding described by Section 54.04(m)(2); or

14 (C) the disposition is modified under Section
15 54.05(f); or

16 (2) with a determinate sentence, if:

17 (A) the child is found to have engaged in conduct
18 that included a violation of a penal law listed in Section 53.045 or
19 that is considered habitual felony conduct as described by Section
20 51.031, the petition was approved by the grand jury under Section
21 53.045, and, if applicable, the court or jury makes the finding
22 described by Section 54.04(m)(2); or

23 (B) the disposition is modified under Section
24 54.05(f).

25 (d) Nothing in this section may be construed to prohibit:

26 (1) a juvenile court or jury from making a disposition
27 under Section 54.04, including:

1 (A) placing a child on probation on such
2 reasonable and lawful terms as the court may determine, including
3 placement in a public or private post-adjudication secure
4 correctional facility under Section 54.04(d)(1)(B)(iii); or

5 (B) placing a child adjudicated under Section
6 54.04(d)(3) or (m) on probation for a term of not more than 10
7 years, as provided in Section 54.04(q); or

8 (2) the attorney representing the state from filing a
9 motion concerning a child who has been placed on probation under
10 Section 54.04(q) or the juvenile court from holding a hearing under
11 Section 54.051(a).

12 (e) The provisions of 37 T.A.C. Section 343.610 do not apply
13 to this section.

14 (f) This section expires on December 31, 2018.

15 SECTION 4. Subsections (b), (f), (j), and (m), Section
16 54.05, Family Code, are amended to read as follows:

17 (b) Except for a commitment to the Texas Juvenile Justice
18 Department or to a post-adjudication secure correctional facility
19 under Section 54.04011, [~~Youth Commission or~~] a disposition under
20 Section 54.0402, or a placement on determinate sentence probation
21 under Section 54.04(q), all dispositions automatically terminate
22 when the child reaches the child's 18th birthday.

23 (f) Except as provided by Subsection (j), a disposition
24 based on a finding that the child engaged in delinquent conduct that
25 violates a penal law of this state or the United States of the grade
26 of felony may be modified so as to commit the child to the Texas
27 Juvenile Justice Department or, if applicable, a post-adjudication

1 secure correctional facility operated under Section 152.0016,
2 Human Resources Code, [~~Youth Commission~~] if the court after a
3 hearing to modify disposition finds by a preponderance of the
4 evidence that the child violated a reasonable and lawful order of
5 the court. A disposition based on a finding that the child engaged
6 in habitual felony conduct as described by Section 51.031 or in
7 delinquent conduct that included a violation of a penal law listed
8 in Section 53.045(a) may be modified to commit the child to the
9 Texas Juvenile Justice Department or, if applicable, a
10 post-adjudication secure correctional facility operated under
11 Section 152.0016, Human Resources Code, [~~Youth Commission~~] with a
12 possible transfer to the Texas Department of Criminal Justice for a
13 definite term prescribed by, as applicable, Section 54.04(d)(3) or
14 Section 152.0016(g), Human Resources Code, if the original petition
15 was approved by the grand jury under Section 53.045 and if after a
16 hearing to modify the disposition the court finds that the child
17 violated a reasonable and lawful order of the court.

18 (j) If, after conducting a hearing to modify disposition
19 without a jury, the court finds by a preponderance of the evidence
20 that a child violated a reasonable and lawful condition of
21 probation ordered under Section 54.04(q), the court may modify the
22 disposition to commit the child to the Texas Juvenile Justice
23 Department [~~Youth Commission~~] under Section 54.04(d)(3) or, if
24 applicable, a post-adjudication secure correctional facility
25 operated under Section 152.0016, Human Resources Code, for a term
26 that does not exceed the original sentence assessed by the court or
27 jury.

(m) If the court places the child on probation outside the child's home or commits the child to the Texas Juvenile Justice Department or to a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code [~~Youth Commission~~], the court:

(1) shall include in the court's order a determination that:

(A) it is in the child's best interests to be placed outside the child's home;

(B) reasonable efforts were made to prevent or eliminate the need for the child's removal from the child's home and to make it possible for the child to return home; and

(C) the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation; and

(2) may approve an administrative body to conduct a permanency hearing pursuant to 42 U.S.C. Section 675 if required during the placement or commitment of the child.

SECTION 5. Subsections (a), (b), and (d), Section 54.052, Family Code, are amended to read as follows:

(a) This section applies only to a child who is committed to:

(1) the Texas Juvenile Justice Department [~~Youth Commission~~] under a determinate sentence under Section 54.04(d)(3) or (m) or Section 54.05(f); or

(2) a post-adjudication secure correctional facility under a determinate sentence under Section 54.04011(c)(2).

1 (b) The judge of the court in which a child is adjudicated
2 shall give the child credit on the child's sentence for the time
3 spent by the child, in connection with the conduct for which the
4 child was adjudicated, in a secure detention facility before the
5 child's transfer to a Texas Juvenile Justice Department [~~Youth~~
6 ~~Commission~~] facility or a post-adjudication secure correctional
7 facility, as applicable.

8 (d) The Texas Juvenile Justice Department or the juvenile
9 board or local juvenile probation department operating or
10 contracting for the operation of the post-adjudication secure
11 correctional facility under Section 152.0016, Human Resources
12 Code, as applicable, [~~Youth Commission~~] shall grant any credit
13 under this section in computing the child's eligibility for parole
14 and discharge.

15 SECTION 6. Subsections (a), (h), (i), (j), and (k), Section
16 54.11, Family Code, are amended to read as follows:

17 (a) On receipt of a referral under Section 244.014(a), Human
18 Resources Code, for the transfer to the Texas Department of
19 Criminal Justice of a person committed to the Texas Juvenile
20 Justice Department under Section 54.04(d)(3), 54.04(m), or
21 54.05(f), [~~or~~] on receipt of a request by the Texas Juvenile Justice
22 Department under Section 245.051(d), Human Resources Code, for
23 approval of the release under supervision of a person committed to
24 the Texas Juvenile Justice Department under Section 54.04(d)(3),
25 54.04(m), or 54.05(f), or on receipt of a referral under Section
26 152.0016(g), Human Resources Code, the court shall set a time and
27 place for a hearing on the release of the person.

1 (h) The hearing on a person who is referred for transfer
2 under Section 152.0016(j) or 244.014(a), Human Resources Code,
3 shall be held not later than the 60th day after the date the court
4 receives the referral.

5 (i) On conclusion of the hearing on a person who is referred
6 for transfer under Section 152.0016(j) or 244.014(a), Human
7 Resources Code, the court may, as applicable, order:

8 (1) the return of the person to the Texas Juvenile
9 Justice Department or post-adjudication secure correctional
10 facility; or

11 (2) the transfer of the person to the custody of the
12 Texas Department of Criminal Justice for the completion of the
13 person's sentence.

14 (j) On conclusion of the hearing on a person who is referred
15 for release under supervision under Section 152.0016(g) or
16 245.051(c), Human Resources Code, the court may, as applicable,
17 order the return of the person to the Texas Juvenile Justice
18 Department or post-adjudication secure correctional facility:

19 (1) with approval for the release of the person under
20 supervision; or

21 (2) without approval for the release of the person
22 under supervision.

23 (k) In making a determination under this section, the court
24 may consider the experiences and character of the person before and
25 after commitment to the Texas Juvenile Justice Department or
26 post-adjudication secure correctional facility [~~youth commission~~],
27 the nature of the penal offense that the person was found to have

1 committed and the manner in which the offense was committed, the
2 abilities of the person to contribute to society, the protection of
3 the victim of the offense or any member of the victim's family, the
4 recommendations of the Texas Juvenile Justice Department, county
5 juvenile board, local juvenile probation department, [youth
6 ~~commission]~~ and prosecuting attorney, the best interests of the
7 person, and any other factor relevant to the issue to be decided.

8 SECTION 7. Section 59.009, Family Code, is amended to read
9 as follows:

10 Sec. 59.009. SANCTION LEVEL SIX. (a) For a child at
11 sanction level six, the juvenile court may commit the child to the
12 custody of the Texas Juvenile Justice Department or a
13 post-adjudication secure correctional facility under Section
14 54.04011(c)(1) [Youth Commission]. The department, juvenile
15 board, or local juvenile probation department, as applicable,
16 ~~[commission]~~ may:

17 (1) require the child to participate in a highly
18 structured residential program that emphasizes discipline,
19 accountability, fitness, training, and productive work for not less
20 than nine months or more than 24 months unless the department,
21 board, or probation department ~~[commission]~~ extends the period and
22 the reason for an extension is documented;

23 (2) require the child to make restitution to the
24 victim of the child's conduct or perform community service
25 restitution appropriate to the nature and degree of the harm caused
26 and according to the child's ability, if there is a victim of the
27 child's conduct;

1 (3) require the child and the child's parents or
2 guardians to participate in programs and services for their
3 particular needs and circumstances; and

4 (4) if appropriate, impose additional sanctions.

5 (b) On release of the child under supervision, the Texas
6 Juvenile Justice Department [~~Youth Commission~~] parole programs or
7 the juvenile board or local juvenile probation department operating
8 parole programs under Section 152.0016(c)(2), Human Resources
9 Code, may:

10 (1) impose highly structured restrictions on the
11 child's activities and requirements for behavior of the child as
12 conditions of release under supervision;

13 (2) require a parole officer to closely monitor the
14 child for not less than six months; and

15 (3) if appropriate, impose any other conditions of
16 supervision.

17 (c) The Texas Juvenile Justice Department, juvenile board,
18 or local juvenile probation department [~~Youth Commission~~] may
19 discharge the child from the [~~commission's~~] custody of the
20 department, board, or probation department, as applicable, on the
21 date the provisions of this section are met or on the child's 19th
22 birthday, whichever is earlier.

23 SECTION 8. Section 59.010, Family Code, is amended to read
24 as follows:

25 Sec. 59.010. SANCTION LEVEL SEVEN. (a) For a child at
26 sanction level seven, the juvenile court may certify and transfer
27 the child under Section 54.02 or sentence the child to commitment to

the Texas Juvenile Justice Department [~~Youth Commission~~] under Section 54.04(d)(3), 54.04(m), or 54.05(f) or to a post-adjudication secure correctional facility under Section 54.04011(c)(2). The department, juvenile board, or local juvenile probation department, as applicable, [~~commission~~] may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than 12 months or more than 10 years unless the department, board, or probation department [~~commission~~] extends the period and the reason for the extension is documented;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4) impose any other appropriate sanction.

(b) On release of the child under supervision, the Texas Juvenile Justice Department [~~Youth Commission~~] parole programs or the juvenile board or local juvenile probation department parole programs under Section 152.0016(c)(2), Human Resources Code, may:

(1) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of release under supervision;

1 (2) require a parole officer to monitor the child
2 closely for not less than 12 months; and

3 (3) impose any other appropriate condition of
4 supervision.

5 SECTION 9. Subsection (b), Section 841.003, Health and
6 Safety Code, is amended to read as follows:

7 (b) A person is a repeat sexually violent offender for the
8 purposes of this chapter if the person is convicted of more than one
9 sexually violent offense and a sentence is imposed for at least one
10 of the offenses or if:

11 (1) the person:

12 (A) is convicted of a sexually violent offense,
13 regardless of whether the sentence for the offense was ever imposed
14 or whether the sentence was probated and the person was
15 subsequently discharged from community supervision;

16 (B) enters a plea of guilty or nolo contendere
17 for a sexually violent offense in return for a grant of deferred
18 adjudication;

19 (C) is adjudged not guilty by reason of insanity
20 of a sexually violent offense; or

21 (D) is adjudicated by a juvenile court as having
22 engaged in delinquent conduct constituting a sexually violent
23 offense and is committed to the Texas Juvenile Justice Department
24 [~~Youth Commission~~] under Section 54.04(d)(3) or (m), Family Code;
25 and

26 (2) after the date on which under Subdivision (1) the
27 person is convicted, receives a grant of deferred adjudication, is

1 adjudged not guilty by reason of insanity, or is adjudicated by a
2 juvenile court as having engaged in delinquent conduct, the person
3 commits a sexually violent offense for which the person:

4 (A) is convicted, but only if the sentence for
5 the offense is imposed; or

6 (B) is adjudged not guilty by reason of insanity.

7 SECTION 10. Subchapter A, Chapter 152, Human Resources
8 Code, is amended by adding Section 152.0016 to read as follows:

9 Sec. 152.0016. POST-ADJUDICATION SECURE CORRECTIONAL
10 FACILITIES; RELEASE UNDER SUPERVISION. (a) This section applies
11 only to a county that has a population of more than one million and
12 less than 1.5 million.

13 (b) In this section, "post-adjudication secure correctional
14 facility" means a facility operated by or under contract with a
15 juvenile board or local juvenile probation department in accordance
16 with Section 51.125, Family Code.

17 (c) A juvenile board shall establish a policy that specifies
18 whether the juvenile board or a local juvenile probation department
19 that serves a county to which this section applies may:

20 (1) operate or contract for the operation of a
21 post-adjudication secure correctional facility to confine children
22 committed to the facility under Section 54.04011, Family Code; and

23 (2) operate a program through which a child committed
24 to a post-adjudication secure correctional facility under Section
25 54.04011, Family Code, may be released under supervision and place
26 the child in the child's home or in any situation or family approved
27 by the juvenile board or local juvenile probation department.

1 (d) Before placing a child in the child's home under
2 Subsection (c)(2), the juvenile board or local juvenile probation
3 department shall evaluate the home setting to determine the level
4 of supervision and quality of care that is available in the home.

5 (e) A juvenile board or a local juvenile probation
6 department shall accept a person properly committed to it by a
7 juvenile court under Section 54.04011, Family Code, in the same
8 manner in which the Texas Juvenile Justice Department accepts a
9 person under Section 54.04(e), Family Code, even though the person
10 may be 17 years of age or older at the time of the commitment.

11 (f) A juvenile board or a local juvenile probation
12 department shall establish a minimum length of stay for each child
13 committed without a determinate sentence under Section
14 54.04011(c)(1), Family Code, in the same manner that the Texas
15 Juvenile Justice Department determines a minimum length of stay for
16 a child committed to the department under Section 243.002.

17 (g) Except as provided by Subsection (h), if a child is
18 committed to a post-adjudication secure correctional facility
19 under Section 54.04011(c)(2), Family Code, the local juvenile
20 probation department may not release the child under supervision
21 without approval by the juvenile court that entered the order of
22 commitment under Section 54.04011, Family Code, unless the child
23 has been confined not less than:

- 24 (1) 10 years for capital murder;
25 (2) three years for an aggravated controlled substance
26 felony or a felony of the first degree;
27 (3) two years for a felony of the second degree; and

1 (4) one year for a felony of the third degree.

2 (h) The juvenile board or local juvenile probation
3 department may release a child who has been committed to a
4 post-adjudication secure correctional facility with a determinate
5 sentence under Section 54.04011(c)(2), Family Code, under
6 supervision without approval of the juvenile court that entered the
7 order of commitment if not more than nine months remain before the
8 child's discharge as provided by Section 245.051(g).

9 (i) The juvenile board or local juvenile probation
10 department may resume the care and custody of any child released
11 under supervision at any time before the final discharge of the
12 child in accordance with the rules governing the Texas Juvenile
13 Justice Department regarding resumption of care.

14 (j) After a child committed to a post-adjudication secure
15 correctional facility with a determinate sentence under Section
16 54.04011(c)(2), Family Code, becomes 16 years of age but before the
17 child becomes 19 years of age, the juvenile board or local juvenile
18 probation department operating or contracting for the operation of
19 the facility may refer the child to the juvenile court that entered
20 the order of commitment for approval of the child's transfer to the
21 Texas Department of Criminal Justice for confinement if the child
22 has not completed the sentence and:

23 (1) the child's conduct, regardless of whether the
24 child was released under supervision through a program established
25 by the board or department, indicates that the welfare of the
26 community requires the transfer; or

27 (2) while the child was released under supervision:

1 (A) a juvenile court adjudicated the child as
2 having engaged in delinquent conduct constituting a felony offense;

3 (B) a criminal court convicted the child of a
4 felony offense; or

5 (C) the child's release under supervision was
6 revoked.

7 (k) A juvenile board or local juvenile probation department
8 operating or contracting for the operation of a post-adjudication
9 secure correctional facility under this section shall develop a
10 comprehensive plan for each child committed to the facility under
11 Section 54.04011, Family Code, regardless of whether the child is
12 committed with or without a determinate sentence, to reduce
13 recidivism and ensure the successful reentry and reintegration of
14 the child into the community following the child's release under
15 supervision or final discharge from the facility, as applicable.

16 (l) This section expires on December 31, 2018.

17 SECTION 11. Subsection (f), Section 12.42, Penal Code, is
18 amended to read as follows:

19 (f) For the purposes of Subsections (a), (b), and (c)(1),
20 ~~[and (e)],~~ an adjudication by a juvenile court under Section 54.03,
21 Family Code, that a child engaged in delinquent conduct on or after
22 January 1, 1996, constituting a felony offense for which the child
23 is committed to the Texas Juvenile Justice Department ~~[Youth~~
24 ~~Commission]~~ under Section 54.04(d)(2), (d)(3), or (m), Family Code,
25 or Section 54.05(f), Family Code, or to a post-adjudication secure
26 correctional facility under Section 54.04011, Family Code, is a
27 final felony conviction.

1 SECTION 12. The changes in law made by this Act apply only
2 to conduct that occurs on or after the effective date of this Act.
3 Conduct that occurs before the effective date of this Act is covered
4 by the law in effect at the time the conduct occurred, and the
5 former law is continued in effect for that purpose. For the
6 purposes of this section, conduct occurs before the effective date
7 of this Act if any element of the conduct occurred before that date.

8 SECTION 13. This Act takes effect December 1, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 511 passed the Senate on March 27, 2013, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 24, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 511 passed the House, with amendment, on May 20, 2013, by the following vote: Yeas 146, Nays 1, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor